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8 February 10th, 2020

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11 **United States District Court**
12 **Southern District of New York**
13

14 MOUSSA DIARRA,) Civil No. 1:16-civ-07075(VSB)
15 *Plaintiff,*)

16 V.)
17)

18 CITY OF NEW YORK,) **PLAINTIFF'S RESPONSE**
19 *Defendant.*) **TO DEMAND FOR COSTS:**
20) **"STATUS REPORT"**
21)
22)

23
24
25 Hon. Judge Broderick:

26
27 Defendant, City of New York's, renewed request for costs is time
28 barred and moot:

1 This matter was concluded on January 13th, 2020 at the uNited
2 States Supreme Court. Defendant, City of New York had 21 days,
3 pursuant to rule 54 (2) (B):

4 *Timing and Contents of the Motion. Unless a statute or a court*
5 *order provides otherwise, the motion must: (i) be filed no later than 14*
6 *days after the entry of judgment in which to renew their requests for*
7 *costs.*

8 Defendant did not use the subsequent 21 days to renew their
9 request for costs *but only did so 28 days after the end of the matter:*
10 *February 10th, 2020.*

11 Judge Broderick's order for costs made it clear that the renewal of
12 any request for costs had to be filed after conclusion of the matter in a
13 timely manner. It did not abrogate the normal period of 21 days a party
14 has to file for costs. The matter was concluded 28 days ago, City of New
15 York only filed for costs after Mr. Diarra submitted a letter motion for
16 leave to file a motion unsealing victim's photo; this is an abuse of
17 process.

18 In addition, defendant (City of New York) is not proceeding in
19 good faith. On February 8th, 2020 the defendant requested Mr. Diarra to
20 a 50 (H) hearing / deposition; the second deposition of Mr. Diarra,
21 despite clear evidence that facts of Mr. Diarra's arrest, as stated by the
22 Second Circuit, are "well known." Mr. Diarra has expended personal
23 time and expenses for the first deposition and will do the same for the
24 second deposition on March 24th, 2020 – at defendant's request for "well
25 known," facts.

26 In sum: Mr. Diarra's lawsuit, 1-16-cv-07075, was in no way
27 frivolous, as demonstrated by the new claim against City of New York,
28 ECF -252. Furthermore, defendant has failed to show any logical reason

1 why costs are lawfully justified and specifically requested a second
2 deposition from Mr. Diarra.

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4 DATED: LIVINGSTON, NEW JERSEY

5 February 10th, 2020
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7 Respectfully Submitted,

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9 /s/ Kissinger N. Sibanda

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11 KISSINGER N. SIBANDA, ESQ.,
12 Attorney for the Plaintiff
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18 To: **BY ECF and by Hand upon Full Briefing**

19 Honorable Vernon S. Broderick
20 United States District Court
21 Southern District of New York
22 40 Foley Square,
23 Room 415 New York, NY 10007

24
25 **VIA ECF**

26 Cooperation Counsel
27 New York Law Department
28 Valerie E. Smith Esq (Assigned)

1 Attorney for Defendant
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4

5 **CC: COLLEN McMAHON**
6

7 Chief judge SDNY.
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